

FOREIGN CLAIMS SETTLEMENT COMMISSION
OF THE UNITED STATES
WASHINGTON, D.C. 20579

IN THE MATTER OF THE CLAIM OF

ELISA S. MILLER

Claim No. CU-2000

Decision No. CU-1170

Under the International Claims Settlement
Act of 1949, as amended

Counsel for claimant:

Miguel A. Suarez, Esq.

Appeal and objections from a Proposed Decision entered February 7, 1968.
No oral hearing requested; Hearing on the record.

Hearing on the record held on June 26, 1968.

FINAL DECISION

The Commission issued its Proposed Decision denying this claim based upon the asserted loss of improved real and personal property for the reason that claimant had not met the burden of proof, in that she had failed to establish ownership of rights and interest in property which was nationalized, expropriated or otherwise taken by the Government of Cuba. Claimant, through counsel, objected to the Proposed Decision but submitted no evidence in support of her contentions.

Full consideration having been given to the objections of the claimant, and the entire record, including claimant's objections, having been

reviewed, and general notice of the Proposed Decision having been given by posting for 30 days, it is

ORDERED that the Proposed Decision be and the same is hereby entered as the Final Decision of the Commission in this claim.

Dated at Washington, D. C.,
and entered as the Final
Decision of the Commission

3 JUL 1968

Leonard v. B. Sutton

Leonard v. B. Sutton, Chairman

Theodore Jaffe

Theodore Jaffe, Commissioner

Sidney Freidberg

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PROPOSED DECISION

This claim against the Government of Cuba, under Title V of the International Claims Settlement Act of 1949, as amended, in the amount of \$36,000.00 was presented by ELISA SAMS MILLER based upon the asserted loss of real and personal property located in Cuba. Claimant has been a national of the United States since her naturalization on May 12, 1943.

Under Title V of the International Claims Settlement Act of 1949 [78 Stat. 1110 (1964) 22 U.S.C. §§1643-1643k (1964), as amended, 79 Stat. 988 (1965)]⁷, the Commission is given jurisdiction over claims of nationals of the United States against the Government of Cuba. Section 503(a) of the Act provides that the Commission shall receive and determine in accordance with applicable substantive law, including international law, the amount and validity of claims of nationals of the United States against the Government of Cuba arising since January 1, 1959 for

losses resulting from the nationalization, expropriation, intervention or other taking of, or special measures directed against, property including any rights or interests therein owned wholly or partially, directly or indirectly at the time by nationals of the United States.

Section 502(3) of the Act provides:

The term 'property' means any property, right, or interest including any leasehold interest, and debts owed by the Government of Cuba or by enterprises which have been nationalized, expropriated, intervened, or taken by the Government of Cuba and debts which are a charge on property which has been nationalized, expropriated, intervened, or taken by the Government of Cuba.

Section 504 of the Act provides, as to ownership of claims, that

(a) A claim shall not be considered under section 503(a) of this title unless the property on which the claim was based was owned wholly or partially, directly or indirectly by a national of the United States on the date of the loss and if considered shall be considered only to the extent the claim has been held by one or more nationals of the United States continuously thereafter until the date of filing with the Commission.

The Regulations of the Commission provide:

The claimant shall be the moving party and shall have the burden of proof on all issues involved in the determination of his claim. (FCSC Reg., 45 C.F.R. §531.6(d) (Supp. 1967).)

Claimant asserts the ownership of certain real property and personal property in Cuba; however, claimant has submitted no documentary evidence in support of her claim. By Commission letters of July 10, 1967 and December 6, 1967, claimant was advised, through counsel, as to the type of evidence proper for submission to establish her claim under the Act.

On December 6, 1967, counsel was invited to submit evidence he might have within 30 days from that date, and he was informed that, absent such evidence it might become necessary to determine the claim on the basis of the present record. Neither counsel nor claimant have responded to the correspondence of the Commission and no evidence has been submitted in support of this claim.

The Commission finds that claimant has not met the burden of proof, in that she has failed to establish ownership of rights and interests in property which was nationalized, expropriated or otherwise taken by the

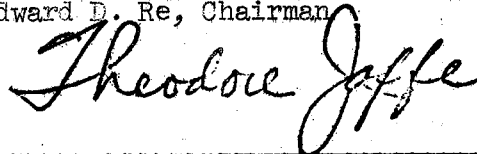
Government of Cuba. Accordingly, this claim is hereby denied. The Commission deems it unnecessary to determine other elements of this claim.

Dated at Washington, D. C.,
and entered as the Proposed
Decision of the Commission

FEB 7 1968



Edward D. Re, Chairman



Theodore Jaffe, Commissioner

NOTICE: Pursuant to the Regulations of the Commission, if no objections are filed within 15 days after service or receipt of notice of this Proposed Decision, the decision will be entered as the Final Decision of the Commission upon the expiration of 30 days after such service or receipt of notice, unless the Commission otherwise orders. (FCSC Reg., 45 C.F.R. 531.5(e) and (g) as amended, 32 Fed. Reg. 412-13 (1967).)